

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

MELVIN MCGREGOR
Movant,

v.

UNITED STATES OF AMERICA
Respondent.

No. 07-CR-10312-NMG

**MOTION TO CORRECT SENTENCE UNDER 28 U.S.C. § 2255
AND *JOHNSON V. UNITED STATES***

Movant, Melvin McGregor, through undersigned counsel, respectfully moves this Court to vacate and correct his sentence pursuant to 28 U.S.C. § 2255.

In 2009, Mr. McGregor was sentenced as an Armed Career Criminal under the Armed Career Criminal Act (“ACCA”), 18 U.S.C. § 924(e). In *Johnson v. United States*, 135 S. Ct. 2551, 2563 (2015) (“*Johnson II*”), the Supreme Court struck the residual clause of the ACCA, *see* 18 U.S.C. § 924(e)(2)(B)(ii), as unconstitutionally vague. In *Welch v. United States*, No. 15-6418, 2016 WL 1551144, at *12 (Apr. 18, 2016), the Supreme Court made *Johnson* retroactive. Post- *Johnson*, Mr. McGregor does not have the predicates required for the ACC designation and does not qualify as an Armed Career Criminal. Instead, the ten-year statutory maximum for the offense applies. *See* 18 U.S.C. § 924(a)(2).

Mr. McGregor respectfully requests that this Court vacate his sentence and schedule a re-sentencing hearing.

STATEMENT OF FACTS AND PREDICATE OFFENSES

On September 19, 2007, Mr. McGregor was charged in a single-count indictment with being a felon in possession of a firearm and ammunition, in violation of 18 U.S.C. § 922(g).

Motion allowed. SPB/Gorton, USDT 10/5/16